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July 22, 2009

**VIA E-FILING**

Charles L. A. Terreni, Esquire  
Chief Clerk and Administrator  
South Carolina Public Service Commission  
101 Executive Center Drive  
Columbia, SC 29210

RE: Application of LMK Communications, LLC for a Certificate of Public Convenience and Necessity to Provide Interexchange and Local Exchange Telecommunications Services and for Local Service Offerings to be Regulated in Accordance with Procedures Authorized for NewSouth Communications in Order No. 98-165 in Docket No. 97-467-C; and for Interexchange Service Offerings to be Regulated in Accordance with Procedures Established for Alternative Regulation in Order Nos. 85-1734 and 96-55 in Docket No. 95-661-C  
Docket No.:

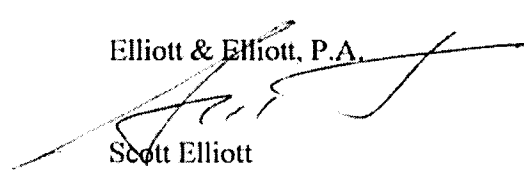
Dear Mr. Terreni:

Enclosed please find an Application of LMK Communications, LLC, for a Certificate of Public Service and Necessity to Provide Interexchange and Local Exchange Telecommunications Services in South Carolina. Also enclosed is a Motion for Protective Treatment to file the confidential financial statements found in, Exhibit C, under seal as a Trade Secret. Copies of Exhibit C containing the confidential financial statements are being filed with the Public Service Commission by mail under seal and served with the Application and Motion for Protective Treatment upon the Office of Regulatory Staff under seal. Also enclosed is a Certificate of Service on the Office of Regulatory Staff.

If you or your staff have questions, please feel free to contact me.

Sincerely,

Elliott & Elliott, P.A.

  
Scott Elliott

SE/jcl

Enclosures

cc: Dukes Scott, Esquire w/enc.  
Joseph Isaacs, Esquire

**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

Application of LMK Communications, LLC  
for a Certificate of Public Convenience and  
Necessity to Provide Interexchange and Local  
Exchange Telecommunications Services and  
for Local Service Offerings to be Regulated  
in Accordance with Procedures Authorized  
for NewSouth Communications in Order No.  
98-165 in Docket No. 97-467-C; and for  
Interexchange Service Offerings to be  
Regulated in Accordance with Procedures  
Established for Alternative Regulation in  
Order Nos. 85-1734 and 96-55 in Docket  
No. 95-661-C

Docket No.

**MOTION FOR PROTECTIVE TREATMENT  
AND  
BASIS FOR FILING EXHIBIT C AS TRADE  
SECRET**

**Introduction**

LMK Communications, LLC ("Applicant"), by its attorneys and pursuant to S.C. Code Ann. § 39-8-10, *et seq.*, and all other applicable rules, statutes and regulations, hereby files this Motion for Protective Treatment ("Motion") in the above-captioned proceeding. By this Motion, the Applicant seeks protective treatment by the South Carolina Public Service Commission ("Commission"), of certain commercially-sensitive financial statements attached as *Exhibit C*, filed as Trade Secret to the Application of LMK Communications, LLC for a Certificate of Public Convenience and Necessity to Provide Interexchange and Local Exchange Telecommunications Services ("Application"). Because this Motion is an inseparable part of the Application, it is being filed concurrently therewith.

LMK Communications, LLC  
9650 Strickland Rd. #103-143  
Raleigh, NC 27615

2. Correspondence or communications regarding this Motion should be addressed to:

Scott Elliott, Esquire  
Elliott & Elliott, P.A.  
721 Olive Street  
Columbia, SC, 29205  
Tel: 803-771-0555  
Fax: 803-771-8010  
Email: [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us)

with a copy to:

Joseph Isaacs, Esquire  
Director of Regulatory Affairs  
LMK Communications, LLC  
4274 Enfield Court, Suite 1600  
Palm Harbor, FL 34685  
Tel: 727-738-5552  
Fax: 727-939-2672  
Email: [osaacs@isg-telecom.com](mailto:osaacs@isg-telecom.com)

**I. Description of Confidential Information.**

3. The Application requires the Applicant to disclose evidence of financial fitness through the submission of documentation of its financial resources and ability to provide the requested service. In conformity with this requirement, the Applicant submits copies of its financial statements. These documents contain highly confidential and strictly proprietary information, the public disclosure of which may result in direct, immediate and substantial harm to the competitive position of the Applicant in South Carolina and elsewhere.

## **II. Grounds for Claim of Confidentiality.**

4. The Applicant is presently immune from a legal obligation to prepare or submit projected financial statements, or any other financial information, to any public entity. As such, the financial statements attached as *Exhibit C* to the Application are not readily available to persons external to Applicant.

5. Because the projected financial statements submitted by the Applicant in support of the Application contain confidential and commercially-sensitive information from which its competitors may derive economic value, the Applicant seeks to protect such material from public disclosure. The Applicant derives independent economic value from the fact that significant, detailed and proprietary information regarding its financial structure and current financing activities is unknown to its competitors. As such, the Company's financial statements are a "trade secret" as that term is used in South Carolina Trade Secrets Act. *S.C. Code Section 39-8-20(5)*. Given this fact, the disclosure of this information could provide existing and potential competitors, including interexchange carriers ("DCCs") in South Carolina, as well as in other states in which the Applicant provides or intends to provide telecommunications service, with an unfair and undeserved competitive advantage.

6. The Applicant clarifies herein that its request for protection applies only to the documents attached as *Exhibit C* to the Application. The Applicant is not seeking protection of any type for those reports the Applicant is required to file with the Office of Regulatory Staff ("ORS") should the relief sought in the Application be granted: i.e. the Annual Report Form, Gross Receipts Report, and Universal Service Fund Worksheet.

### **CONCLUSION**

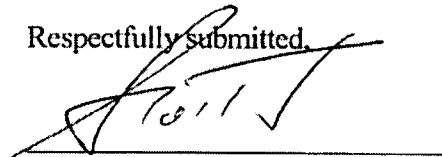
7. The financial information included in support of the Applicant's Application, for which Confidential Treatment is sought, is both proprietary and

competitively-sensitive. The substantial and direct harm that could be caused to the Applicant as a result of any disclosure is real and not speculative. Moreover, to date, no other jurisdiction or governmental agency has required the Applicant to make this information available to the public. For all these reasons, the projected financial statements attached as *Exhibit C* to the Application should be protected from public disclosure by the Commission.

WHEREFORE, the Applicant respectfully requests that the South Carolina Public Service Commission grant this Motion for Protective Treatment with respect to the financial statements attached as *Exhibit C* to the Application of LMK Communications, LLC, for a Certificate of Public Convenience and Necessity to Provide Interexchange and Local Exchange Telecommunications Services and for Local Service Offerings to be Regulated in Accordance with Procedures Authorized for NewSouth Communications in Order No. 98-165 in Docket No. 97-467-C; and for Interexchange Service Offerings to be Regulated in Accordance with Procedures Established for Alternative Regulation in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C filed *under seal* as Confidential in this proceeding.

Dated this 22<sup>nd</sup> day of July, 2009

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott Elliott', is written over a horizontal line.

Scott Elliott  
ELLIOTT & ELLIOTT, P.A.  
721 Olive Street  
Columbia, SC 29205  
Telephone: (803) 771-0555  
[selliott@elliottlaw.us](mailto:selliott@elliottlaw.us)

Attorneys for Applicant

## CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

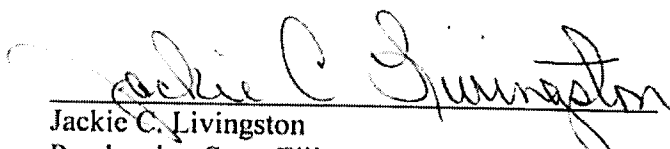
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DOCKET NO.:

PARTIES SERVED: C. Dukes Scott, Esquire  
Office of Regulatory Staff  
P. O. Box 11263  
Columbia, SC 29211

PLEADING: APPLICATION AND FINANCIAL STATEMENTS

July 22, 2009

  
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Jackie C. Livingston  
Paralegal to Scott Elliott